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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSEPH MONCAYO,

Defendant and Appellant.

B288664

(Los Angeles County
Super. Ct. No. BA457665)

APPEAL from a judgment of the Superior Court of Los Angeles County, Renee F. Korn, Judge. Affirmed.

Sylvia Ronnau, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury convicted appellant Joseph Moncayo on one count of second degree robbery. (Pen. Code, § 211.)¹ We have conducted an independent examination of the entire record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and conclude that no arguable issues exist. Accordingly, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Prosecution Evidence

On April 20, 2017, appellant's father, Jose Moncayo, was at his place of business with his girlfriend, Alexandra Mora Yuvi. Around 7:00 p.m., Moncayo lowered the gate and worked on his computer. Yuvi was sitting on a nearby sofa.

Around 9:00 p.m., Moncayo heard someone banging on the door. He opened the door and saw his daughter (appellant's sister), Jaylene, who asked if she could use the restroom. He did not allow her to come in because she appeared agitated. He saw appellant and appellant's mother (Moncayo's wife at the time) get out of the car and approach him. Appellant and his sister entered Moncayo's business.

Moncayo and his wife argued about child support. Moncayo called the police because his wife, son and daughter were aggressive and had been aggressive toward him in the past. Moncayo told Yuvi to run across the street to another store.

When Yuvi ran across the street, Jaylene followed and started hitting her. Moncayo pulled Jaylene off Yuvi. Moncayo heard his wife

¹ Unspecified statutory references will be to the Penal Code.

yell, “get the bag.” Appellant grabbed Moncayo, threw him to the ground, and began choking him. Appellant also was taking Yuvi’s bag from her. Although appellant was grabbing the bag, Yuvi managed to give the bag to a friend who was nearby.

After a while, appellant helped Moncayo stand up. Moncayo heard police sirens, and then appellant, Jaylene, and their mother left without Yuvi’s bag. Moncayo suffered cuts to his shoulder and back. Yuvi had bruises on her face and bloody knees.

Defense Evidence

Appellant testified that his parents had been separated prior to the incident but that his father still came to his mother’s house frequently. On April 20, 2017, appellant drove his sister and mother to Moncayo’s business so that his sister could ask for money for a prom dress.

Jaylene went inside the business to use the restroom. Appellant’s mother got out of the car to speak with Moncayo. Appellant saw his father push his mother to prevent her from looking inside the business. Appellant told his father not to put his hand on the mother.

Appellant went inside the business and saw his sister coming out of the restroom. She was angry because Yuvi had questioned her reason for being there, given that her parents were no longer together. Appellant saw Jaylene argue with Yuvi and then saw Yuvi run away, with Jaylene chasing her.

Appellant heard his mother call out for him and when he went outside, he saw Moncayo and Yuvi on top of Jaylene. After appellant

pulled Moncayo off Jaylene, Yuvi ran away. Appellant thought Yuvi had taken Jaylene's purse, so he chased her and grabbed the purse. Appellant's mother told him the purse did not belong to Jaylene, so he let it go and appellant left with his mother and sister.

Procedural Background

On February 6, 2018, appellant was charged by amended information with count 1, second degree robbery, and count 2, attempted second degree robbery.

The jury found appellant guilty of count 1 and not guilty of count 2. The trial court suspended imposition of sentence and placed him on probation for five years on condition that he serve 29 days in county jail, with credit for time served. Appellant timely appealed.

DISCUSSION

After review of the record, appellant's court-appointed counsel filed an opening brief asking this court to review the record independently pursuant to the holding of *Wende, supra*, 25 Cal.3d 436.

On September 18, 2018, we advised appellant that he had 30 days within which to submit any contentions or issues that he wished us to consider. No response has been received to date.

We have independently reviewed the record and conclude that there are no arguable issues on appeal. (See *Wende, supra*, 25 Cal.3d at pp. 441–442; see also *Smith v. Robbins* (2000) 528 U.S. 259, 278-279 [upholding the *Wende* procedure].)

DISPOSITION

The judgment is affirmed.

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WILLHITE, J.

We concur:

MANELLA, P. J.

COLLINS, J.